Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Local	)	CC Docket No. 96-98
Competition Provisions in the	)	
Telecommunications Act of 1996	)	
	)	

REPLY COMMENTS OF COMCAST CORPORATION

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Comcast Corporation ("Comcast"), by its attorneys, hereby replies to comments filed in the above-captioned proceeding.[1/]

I. INTRODUCTION AND SUMMARY

The Telecommunications Act of 1996 ("1996 Act")[2/] provides a clear and unequivocal mandate for the Commission to establish uniform national standards to foster competition in the local telephone exchange market. As the initial comments of Comcast and others demonstrate, the adoption of national standards is urgently required to bring the necessary measure of certainty and uniformity to the regulatory landscape and thereby encourage facilities-based local competition. Comcast strongly supports the adoption of such rules, including bill-and-keep arrangements for the reciprocal transport and termination of traffic between networks.

[1/] Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Notice of Proposed Rulemaking in CC Docket No. 96-98, FCC 96-182 (adopted April 19, 1996)("NPRM").

[2/] Pub. L. No. 104-104, 110 Stat. 56 (Feb. 8, 1996)("1996 Act").

Commenters who oppose national standards (generally the State commissions and incumbent telephone monopolies) advocate continued reliance on State oversight of private negotiations between carriers with little or no federal guidance. These arguments, if adopted, would effectively nullify the 1996 Act and frustrate its "pro-competitive, de-regulatory" objectives. Left to their own devices, most States have permitted incumbents to charge unreasonably high rates for transport and termination of traffic; have failed to ensure that new entrants have realistic opportunities to obtain pro-competitive arrangements from incumbent LECs at the bargaining table; and have, in many cases, applied to new entrants a level of regulation inappropriate for carriers that do not have market power. Incumbent LECs favor the status quo for obvious reasons -- it ensures that new entrants will be denied the kind of consistency and uniformity essential to their ability to achieve critical mass in competing with established, multistate monopolies. Consistent with Congressional intent, the Commission must eliminate these obstacles to competition by adopting national standards for ILEC-to-CLEC relationships and by barring other State policies that may prohibit or have the effect of prohibiting the provision of competitive services.

II. EXPLICIT NATIONAL RULES ARE AUTHORIZED BY THE 1996 ACT AND ARE REQUIRED TO EFFECTUATE ITS PURPOSE

A. The Establishment of Uniform National Standards is Justified on Statutory and Policy Grounds

NARUC and many individual State commissions argue that section 2(b) of the Communications Act limits the Commission's authority under section 251 to interstate

interconnection issues.[3/] The incumbent local exchange carriers ("ILECs") generally make the same arguments.[4/] These commenters simply ignore the specific provisions of the 1996 Act that give the Commission jurisdiction over intrastate interconnection and the authority to remove barriers to the provision of intrastate telecommunications services, in furtherance of the national goal of promoting local telephone exchange competition.

Section 251(c)(2)(A) establishes the duty of each ILEC to provide any carrier with interconnection to its network "for the transmission and routing of telephone exchange service."[5/] The Commission, in turn, is charged with adopting regulations to implement the requirements of section 251[6/] -- including section 251(c)(2)(A), which bears directly on the competitive availability of an intrastate service.

Likewise, section 253(a) preempts any "State or local statute or regulation" that "may prohibit or have the effect of prohibiting" the provision of "any interstate or intrastate telecommunications service."[7/] The Commission is given the express authority to exercise

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[3/] See, e.g., National Association of Regulatory Utility Commissioners at 9-15 ("NARUC Comments"); Pennsylvania Public Utility Commission Comments at 5 ("PAPUC Comments"); Connecticut Department of Public Utility Control Comments at 6-8 ("CTDPUC Comments").

[4/] See, e.g., Bell Atlantic Comments at 3-7. But see BellSouth Comments at 8; Frontier Comments at 3-7.

[5/] 47 U.S.C. § 251(c)(2)(A).

[6/] Id. § 251(d)(1).

[7/] Id. § 253(a) (emphasis added).

this broad preemption, which is not limited to overt government efforts to bar competition.[8/] In view of these explicit grants of authority, it was unnecessary to limit the reach of section 2(b) through an amendment. Given the language of sections 251 and 253, arguments about the purported significance of Congress's failure to amend section 2(b) are irrelevant.[9/]

When the States and ILECs argue that national standards would preclude intercarrier negotiations or deprive the States of any meaningful role in the development of a competitive marketplace,[10/] they misread the language and intent of the 1996 Act. There is no question that the Act contemplates negotiations between carriers in the first instance;[11/] the introduction of uniform national rules does not interfere with this structure, but is in fact essential to make this structure rational and consistent with the national policy goals

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[8/] Id. § 253(d). In this regard, the statutory language expressly contradicts the assertion of the Pennsylvania Public Utilities Commission ("PAPUC") that "the conference report makes clear that the purpose of § 253(a) is to prohibit express state or local regulations, statutes etc. which act to preclude entry altogether into any interstate or intrastate market." PAPUC Comments at 5 (first emphasis in original; second emphasis added). There is a wide range of State and local actions which can "have the effect of prohibiting" entry into the local exchange, including the imposition of unbundling requirements, geographic coverage requirements, and other conditions on new entrants that are not warranted in the absence of market power.

[9/] Compare NARUC Comments at 8 with AT&T Comments at 3-6. See also NCTA Comments at 10-12. It has long been held that a specific grant of authority to the Commission overrules section 2(b)'s general limitation on the Commission's jurisdiction over intrastate matters. See, e.g., Louisiana Public Service Comm'n v. FCC, 476 U.S. 355 (1986).

[10/] See, e.g., Southern New England Telephone Company ("SNET") Comments at 13-14; GTE Service Corporation ("GTE") Comments at 10-13; Michigan Public Service Commission ("MPSC") Comments at 2-3; and Connecticut Department of Public Utility Control ("CTDPUC") at 8-9.

[11/] See generally 47 U.S.C. § 252.

expressed in the Act. These standards establish a baseline that puts ILECs on notice that they will not succeed in depriving competitors of adequate interconnection arrangements.

Were the ILECs to succeed in persuading this Commission to allow negotiations to go forward in the absence of rules implementing national standards, competitors would be left with little or no bargaining power against the dominant monopolist.[12/] As the Department of Justice ("DOJ") explains, "[t]here is no basis in economic theory or in experience to expect incumbent monopolists to quickly negotiate arrangements to facilitate disciplining entry by would-be competitors, absent clear legal requirements that they do so."[13/] It was to reinforce the negotiation process that Congress established the competitive checklist and gave the Commission the clear authority to implement it. Merely establishing nonbinding "preferred outcomes"[14/] or the Pennsylvania Public Utility Commission's "final offer" arbitration[15/] will not suffice to give ILECs the incentive to negotiate with competitors in good faith.[16/]

[12/] As the Commission notes, ILECs and CLECs do not have equal bargaining power. NPRM at ¶ 31. Cf. United States Telephone Association Comments at 6, n.9.

[13/] DOJ Comments at 9-10. See also AT&T Comments at 7 ("The reality is that all incumbent LECs have the ability and overwhelming incentives to refuse to accept any arrangement that would permit effective competition with their monopoly exchange and exchange access services unless they believe that less advantageous arrangements are nearly certain otherwise to be imposed.")

[14/] California Public Utilities Commission ("CAPUC") Comments at 14-15.

[15/] PAPUC Comments at 5.

[16/] DOJ Comments at 12, and n.5.

Notwithstanding the complaints of the ILECs and the States,[17] the fact is that each State retains critical responsibilities for implementing competition: each State is to oversee and arbitrate the particular negotiations that arise within its jurisdiction, subject to the national standards promulgated by this Commission at the direction of Congress. Thus, the Connecticut Department of Public Utility Control, for example, will have ample opportunity to account for "particular characteristics that affect calling patterns differently than any other state"[18] if it is called upon to arbitrate disputes between Southern New England Telephone Company ("SNET") and competitors seeking interconnection with SNET -- to the extent that its policies remain consistent with the national standards adopted by this Commission. However, it would defeat the purposes of the 1996 Act to allow each State to frame its own, unique interconnection standards under the guise of responding to such "characteristics".[19] This would upset the balance between Federal and State authority -- the former charged with developing uniform standards to be applied by the latter -- established by Congress in the 1996 Act.

B. Inaction and Inappropriate Action by Some States Demonstrate the Need for National Standards

Despite NARUC's assertion that the states are "unequivocally committed to local competition," the fact is that despite over half a decade of efforts to open up the local

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[17] See, e.g., Florida Public Service Commission ("FLPSC") Comments at 5-6; PAPUC Comments at 3-6; BellSouth Comments at 2-6.

[18] CTPUC Comments at 12.

[19] Compare CTDPUC Comments at 8 ("differences in state economic and demographic factors . . . illustrate that explicit standards cannot satisfy Congress' intent") with DOJ Comments at 8-15 (emphasizing the need for uniform national standards to promote local competition).

exchange, only 19 states have put rules in place to open the local exchange market to competition.[20/] In only seven states are competing firms actually offering any switched local services.[21/] It is incorrect to suggest, as NARUC does, that would-be competitors are driven by the economics of local markets more than by regulatory conditions in those markets. The uneven legal and regulatory environments in the States have been a major factor in discouraging competitive entry.[22/] It was to redress this "lumpiness," which discourages competitive entry, that Congress enacted the 1996 Act.[23/]

In addition to the barriers to competitive entry still present in numerous States, other States have adopted regulations that, while characterized as intended to foster competition, have the effect of blocking it. The 1996 Act does permit the preservation of State access and

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[20/] NPRM at ¶ 5. As the Commission also noted, even in the 19 states with local competition rules in place, their efforts to promote competitive entry into local markets "vary widely." Id.

[21/] Id.

[22/] Id. For example, New Jersey has the highest population density of any state and should be an attractive market for Comcast, which serves over 700,000 cable customers there, as well as other major cable companies. However, there has been no process in place to facilitate applications for market entry. In only the last few months has New Jersey opened a proceeding to begin to address local competition issues. See Common Carrier Competition, CC Report No. 96-9, FCC Common Carrier Bureau (Spring 1996). The dominant ILEC in New Jersey has succeeded in promoting a "go-slow" attitude in the state, denying its citizens the early benefits of competitive entry that should naturally have occurred in such an economically important state.

[23/] Conference Report at 1. As Comcast noted in its initial comments, the need to accommodate disparate regulatory requirements in multiple States is a disincentive to the company's provision of competitive local exchange services on a regional basis. See Comcast Comments at 9. Attached hereto as Exhibit 1 is a chart prepared by the NCTA summarizing regulatory activities at the state level as of December 31, 1995. Even the brief overview provided by this chart amply demonstrates the lack of consistency in approach and timing that different states have taken to addressing and resolving local competition issues.

interconnection regulations that are consistent with the requirements of section 251 and that do not substantially prevent the implementation of that section and the essential Congressional purpose of establishing a "national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies."[24/] The Act also authorizes the Commission to preclude any regulation that is inconsistent with the Federal requirements or prevents their implementation.

Emblematic of State regulations that are inconsistent with the language and policies of the 1996 Act are those that seek to subject competitive local exchange carriers ("CLECs") to the unbundling, interconnection, and resale obligations that the 1996 Act imposes only on ILECs. For instance, under Michigan law, providers of basic local exchange service to more than 250,000 end users are required immediately to provide unbundled network elements, regardless of their ILEC or CLEC status.[25/] After the year 2000, all providers of basic local exchange service may be required by law to unbundle their networks, including CLECs.[26/] Connecticut may require all CLECs to provide unbundled network elements

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[24/] See Conference Report at 1 (emphasis added); see also 47 U.S.C. § 251(d)(3)(B), (C). The Connecticut DPUC argues that Congress intended to permit State regulations that are not inconsistent with or do not substantially prevent implementation of the requirements of section 251. CTDPUC Comments at 6. Yet preemption is not limited to State regulations that interfere with the specifics of section 251. The DPUC overlooks the broader language in section 251(d)(3)(C) preempting State regulations that substantially prevent implementation of the "purposes of [part II of Title II]" -- the establishment of a "national policy framework..." as cited above.

[25/] Michigan Public Service Commission Staff Comments at 10-11.

[26/] The 1996 Act includes specific standards for the Commission to use for reclassifying a CLEC as an ILEC. Achieving a subscriber base of 250,000 is not among those standards. See 47 U.S.C. § 251(h)(2).

even sooner.[27/] State requirements such as these are preempted by the 1996 Act's carefully-drawn distinction between ILECs and CLECs.[28/] Such requirements must not be allowed to stand because they will discourage facilities-based competitors from entering the market, undermining a core objective of the 1996 Act.

National standards are also justified -- indeed, essential -- in view of the compressed timeframes for State arbitration and review of interconnection agreements.[29/] Despite the States' purported "unequivocal commitment" to local exchange competition, 31 States have yet to adopt the necessary regulatory framework. Even among those States that have made some progress, the resolution of such issues as interconnection, unbundling, and pricing, has taken considerably more time than is allowed under the 1996 Act.[30/] The adoption of uniform national standards is the only way to give the States the specific guidance they need

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[27/] See Comcast Comments at 17; see also Investigation into Participative Architecture Issues, Statement of the Scope of the Proceeding in Connecticut Department of Public Utility Control Docket No. 94-10-04 (adopted March 5, 1996) at 2. A Draft Decision in Docket No. 94-10-04 is due to be distributed on June 3, 1996.

[28/] Comcast Comments at 15-17.

[29/] 47 U.S.C. § 252(b)(4)(C) (requiring States to complete arbitration within 135 days of receiving a request to arbitrate); id. § 252(e)(4) (requiring States to complete review of agreements that result from arbitration within 30 days).

[30/] In our experience, it is virtually unheard of for any State to have initiated and completed a proceeding to establish interconnection rates and policies in less than a year. In Pennsylvania, for example, the certification process for the first CLEC applicant took nearly two years to complete. Even now, seven months after that certification, there is no approved interconnection rate in effect in Pennsylvania. In March of this year, one company wrote to the New Jersey Board of Public Utilities reminding the BPU that it and another competitor filed petitions seeking local exchange carrier status 14 months earlier, yet to date "no action has been taken on either... Petition..." Letter from Eric J. Branfman, Counsel for MFS Intelenet of New Jersey, Inc. to The Hon. James Nappi, Secretary, New Jersey Board of Public Utilities, March 28, 1996, at 1.

to resolve these complex matters in a timely fashion when presented with a request to arbitrate a particular negotiation. In the absence of such standards, the statutory timeframes will be simply tossed out the window, and Congress' desire for prompt and timely introduction of local exchange competition on a nationwide basis will be frustrated.

Finally, the need for explicit national rules to implement section 251 is illustrated by the divergent implementation proposals submitted by the States in this proceeding. For instance, the Florida Public Service Commission ("FLPSC") advocates a multi-tiered set of Federal/State "partnerships" comprising four or five levels of Federal oversight ranging from detailed rules to broad guidelines.[31/] Connecticut also advocates a multi-tiered regulatory structure.[32/] Under the CTDPUC proposal, States with local competition rules in place or proceedings underway -- presumably without regard to the content of such rules -- would be subject to flexible guidelines and minimum standards that give them the ability to "meet their own goals for local competition."[33/] For the "second-tier" states, the CTDPUC would have this Commission adopt rules and regulations providing stringent requirements to create an "incentive" for these States to adopt laws and regulations to permit local competition.[34/]

These plans contravene the intent of Congress -- to implement a "national policy" through passage of the 1996 Act.[35/] If adopted, these plans would exacerbate the existing

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[31/] FLPSC Comments at 2-3.

[32/] CTDPUC Comments at 3.

[33/] Id.

[34/] Id.

[35/] Conference Report at 1.

confusion and unevenness among the States by sanctioning even more deviations; delay and uncertainty would multiply as the Commission tried to rate and rank each State's progress toward achieving local competition for purposes of deciding which "tier" it belongs in. This is not "pro-competitive" and "de-regulatory" -- it is the antithesis of those terms.

III. UNIFORM PRICING STANDARDS ARE REQUIRED TO ENCOURAGE THE DEVELOPMENT OF TELECOMMUNICATIONS COMPETITION

A. The Commission Has the Authority to Promulgate Uniform Pricing Standards

Contrary to the assertion by the USTA and a number of State commissions, the 1996 Act grants the Commission authority to establish specific pricing standards applicable to interconnection, unbundling, transport and termination, and resale.[36/] Clear Federal pricing standards are essential to ensuring that facilities-based competition can develop on a nationwide basis.

The pricing standards in Section 252 are inextricably linked with Section 251 -- indeed, those standards explicitly relate back to the requirements of Section 251 and in fact are incorporated by reference into that section[37/] -- and fall squarely within the Commission's implementing authority. In essence, the pricing standards are Federally-

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[36/] See USTA Comments at 37-38; PAPUC Comments at 9-11; CTDPUC Comments at 9-10.

[37/] See 47 U.S.C. § 252(d)(1) (establishing pricing standards "for purposes of subsection (c)(2) of section 251" and "for purposes of subsection (c)(3) of such section"); id. at 252(d)(2) (establishing transport and termination standards "[f]or purposes of compliance by an incumbent local exchange carrier with section 251(b)(5)"); id. at 251(c)(2)(D)(interconnection must be provided on rates, terms, and conditions in accordance with "the requirements of this section and section 252").

imposed limitations on the States' resolution of pricing disputes that may arise in their oversight of interconnection negotiations.

Permitting the States to develop inconsistent pricing standards would stand as an additional barrier to the development of regional and national efforts to offer competitive local telecommunications services, frustrating Congress's goal of a "pro-competitive . . . national policy framework."[38/] The right to interconnection without assurance that it will be available nationwide at a reasonable price is no right at all.

B. The Commission Can and Should Mandate Bill and Keep Arrangements for Transport and Termination

Comcast strongly supports the adoption of bill and keep as an interim standard for transport and termination pricing. A number of States already have ordered bill and keep,[39/] at least on an interim basis, and the ILECs' arguments against this arrangement in the instant proceeding are unavailing.

First, adoption of bill and keep arrangements is appropriate and fair to both incumbent LECs and CLECs because the "additional costs" to each carrier of terminating calls on their networks -- the relevant statutory standard for pricing transport and termination -- is at or close to zero, and will remain so for the foreseeable future.[40/]

[38/] Conference Report at 1.

[39/] See "Competition - The State Experience," Responses to FCC 3/1/96 Questions, NARUC (March 8, 1996) at 4 (California), 15 (Colorado), 69 (Iowa), 77 (Michigan, 85 (Ohio), 106 (Oregon), 118 (Texas), 139 (Washington) ("NARUC Handbook").

[40/] NCTA Comments at 55; DOJ Comments at 34. Where the relevant economic costs of terminating traffic are zero for each carrier, then bill and keep is the equivalent of rates based on incremental costs, consistent with the pricing standard established in section 252(d)(2)(A)(ii). NCTA Pricing Study at 31-32. See also DOJ Comments at 34-35.

Second, bill and keep reflects the mutual benefit that each interconnecting carrier derives from the ability to terminate calls on the other's network. Connectivity is as valuable for the ILEC's customers as it is for the CLEC's.

Third, bill and keep is "architecture neutral." It recognizes that each carrier may use a somewhat different architecture to transport and terminate the calls it receives from other carriers, and treats those architectures as equivalent for purposes of compensation arrangements. Thus, for example, just because a CLEC's switching structure does not mirror the traditional ILEC structure of end offices and tandems does not mean that there should be a rate differential when the CLEC connects at an ILEC's EO or tandem. In fact, the interconnection at a single point of collocation with the CLEC is more efficient; the CLEC should not be penalized for the ILEC's inefficiency. Were there a rationale for a rate differential, then the CLEC in this case should be entitled to the higher rate, because it provides greater value and more transport. The better, and more regulatorily efficient, answer is to adopt bill-and-keep.

Fourth, the obvious difficulty of devising and implementing methods for billing, collection and audit associated with the use of an exact cost-based pricing methodology argues strongly for the adoption of bill and keep arrangements as an interim solution to reciprocal compensation. Given the equities described above, and the transactional costs associated with metering transport and termination, bill-and-keep may, in some or all cases, be the most appropriate long-term solution as well.[41/]

[41/] See, e.g., DOJ Comments at 34.

As NCTA demonstrates in its reply comments, the Commission's authority to require bill and keep arrangements is clear. Arguments by some ILECs and others that bill and keep is available only if carriers voluntarily agree to it misreads the 1996 Act.[42/] If it served merely as a statement of what carriers may voluntarily agree to, section 252(d)(2)(B)(i) would be unnecessary, since section 252(a) explicitly authorizes "binding agreements . . . without regard to the standards set forth in . . . section 251."[43/] Section 252(d)(2)(B)(i) authorizes arrangements, to be established by the Commission,[44/] that waive mutual recovery of costs; it does not restrict bill and keep to situations where the carrier elects to waive mutual recovery.

The ILECs' chronic recital of the alleged constitutional infirmities of bill and keep should not deter the Commission from requiring such arrangements.[45/] Given the mutuality of benefit from interconnection and the near-zero additional costs of providing transport and termination, arguments that bill and keep is an uncompensated taking can easily be dismissed -- as they have been by the Supreme Court.[46/]

[42/] See, e.g.,MFS Comments at 85-86; BellSouth Comments at 73.

[43/] 47 U.S.C. § 252(a).

[44/] "Reciprocal compensation arrangements" is a requirement of section 251, and therefore is within the scope of the Commission's implementing regulations. 47 U.S.C. §§ 251(b)(5), (d)(1).

[45/] See BellSouth Comments at 74-75.

[46/] A rate does not violate the takings clause unless it is so unjust as to be confiscatory. See Duquesne Light Co. v. Barasch, 109 S.Ct. 609, 615 (1989), citing Covington & Lexington Turnpike Road Co. v. Sanford, 164 U.S. 578, 579 (1896)(a rate is confiscatory if it is so unjust as to "destroy the value of the property for all purposes for which it was acquired"). See also Federal Power Comm'n v. Natural Gas Pipeline Co., 315 U.S. 575, 585 (1942)(the lowest reasonable rate is one that is not confiscatory).

Finally, a national policy of bill and keep is also necessary in light of the arbitrary pricing rules for transport and termination adopted by several States. At the behest of ILECs, States have adopted a wide-range of pricing rules with highly inconsistent rationales. Some insist on a contribution to overhead as part of the rate; some insist on rate differentials based on the point of interconnection. Some have established interim rates as high as 6.1 cents per call[47] or 1.5 cents per minute.[48] Pennsylvania, unable to arrive at a cost-based transport and termination rate, simply split the difference between two utterly incongruent rate proposals and arrived at a result that would more than adequately compensate the ILEC, heedless of the potential hardship for CLECs.[49]

Clearly, all of the foregoing factors require that the Commission, at a minimum, adopt a bill and keep regime for transport and termination, on a mutual and reciprocal basis, while developing more extensive cost data. This is a prerequisite to get timely competition into the local marketplace. In addition, the data currently in the record of this proceeding

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[47] MFS Intelenet of Maryland, 152 PUR 4th 102, 124 (1994).

[48] See NARUC Handbook at 77. The transport and termination rate approved by the Michigan Public Service Commission ("MPSC") currently stands as one of the most onerous in the nation. Under the formula adopted by the MPSC, if traffic exchange between carriers is out of balance by more than five percent, carriers must pay reciprocal transport and termination charges of 1.5 cents per minute, a rate that approaches the switched access rate currently charged by Ameritech.

[49] See In the Matter of the Application of MFS Intelenet of Pennsylvania, Inc.; MCI Metro Access Transmission Services, Inc.; TCG Pittsburgh, Inc.; and Eastern TeleLogic Corporation, Pennsylvania Public Utility Commission, Motion of Vice-Chairman Lisa Crutchfield in Docket Nos. A-310203F002, A-310236F002, A-310213F002, and A-310256F002 (1995). Under that Motion, transport and termination is priced at $3250.00 per month, per DS1, paid into excrow subject to a subsequent true-up. By contrast, Comcast's affiliate, Eastern TeleLogic, provides DS1 dedicated access to carriers at a retail rate of $375.00 per month.

and the Commission's CMRS-to-LEC interconnection proceeding all support bill and keep.[50/]

C. Resale Discounts Must Not Discourage Facilities-Based Competition

Paramount among the 1996 Act's goals is the promotion of facilities-based competition.[51/] Facilities-based competition encourages innovation and the deployment of new technologies and provides consumers with choices in price and service. Resale is valuable as a transition to facilities-based competition and as a means for facilities-based providers to extend their service territories.[52/]

Congress established a wholesale rate for the resale of ILECs' retail services -- the retail rate minus "avoided costs" -- that appropriately balance the goal of facilities-based competition and the benefits of resale.[53/] The Commission should reject efforts to reduce the wholesale rate below the statutory levels. Such a result would inhibit potential entrants' incentives to make the substantial investments necessary for new network construction.[54/]

[50/] See Comments of Comcast Corporation in CC Docket No. 95-185, at 8-12 (filed March 4, 1996); See also Dr. Gerald W. Brock, Interconnection and Mutual Compensation With Partial Competition, attached to Comments of Comcast Corporation, Appendix, in CC Docket No. 94-54, at 24 (filed September 12, 1994).

[51/] See 47 U.S.C. § 271(c)(1)(A); House Report at 76-77. See also Comcast Comments at 20-21; NCTA Comments at 26-30.

[52/] See Comcast Comments at 20-21; NCTA Comments at 28-30.

[53/] 47 U.S.C. § 252(d)(3).

[54/] MCI, for instance, derives a 34 percent discount off of retail rates by excluding from the wholesale rate costs that the ILEC does not actually "avoid" when it provides services for resale. It would also exclude allocated common costs, even though the avoided cost standard is essentially a measure of short-run incremental costs. See NCTA Reply Comments, Attachment 1 (Owen Reply Declaration). A wholesale discount of 10 percent is appropriate (continued...)

Further, efforts to deviate from the statutory standard would either impede facilities-based competition or would preclude meaningful resale opportunities, and should be rejected.

IV. CONCLUSION

It simply defies reason to argue, as many of the States and incumbent local exchange carriers have in this proceeding, that Congress put in place a national policy to promote local exchange telecommunications, provided in great detail for an FCC role in establishing implementing regulations, set strict timelines for States to oversee and arbitrate interconnection agreements that had lagged for years -- and yet, that it somehow intended for the policy and process status quo to prevail. Congress did not intend to perpetuate the uneven and conflicting nature of interconnection policies around the nation. It directed this Commission to bring order to this chaos. For the foregoing reasons, Comcast urges the

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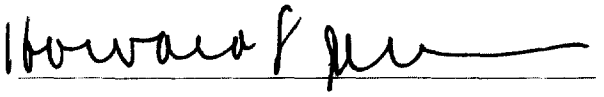
[54/](...continued)
and will not undermine the development of facilities-based competition. Comcast Comments at 20-21.

Commission to adopt explicit national rules that further the 1996 Act's objectives of promoting facilities-based competition and new entrants into the local exchange market.

Respectfully submitted,

COMCAST CORPORATION



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Local Exchange Competition and the States: A Summary of Commission Regulatory Activity

State	Local Competition Proceedings	Universal Service Initiatives	Number Portability Requirements	Resale/Sale of Exchanges	Interconnection Arrangements	Commission Progress Report
Alabama	The Alabama PSC opened a competition docket in March, 1995. An order allowing certification of competing local exchange providers was signed on September 20, 1995.	Workshops were held beginning October 1995 to resolve the creation of a Universal Service Fund for local telephone service. Workshops continue through March, 1996.	The Commission is currently holding workshops regarding number portability.	Currently under review by the commission.	All local service providers required to provide access and interconnection at "just and reasonable" rates. Incumbent CATV companies can apply to provide local service if any LEC uses its local telephone network to provide VDT or CATV services.	The Commission has taken an active role in implementing local exchange service. Several rulemaking dockets are underway and several carriers have applied for a certificate to offer local exchange service.
Alaska	Local Competition is currently not allowed in Alaska by Statute.	Not under Commission Review.	Not under Commission Review.	Not under Commission review.	Not under Commission Review.	The APUC has introduced Docket AK2001, which is an investigation into long range telecommunications policy for Alaska.

Sources:

CCL Corporation. "Implementation of Local Competition - Status As of December 31, 1995"

"NCTA Status of Local Competition". January 1996.

State	Local Competition Proceedings	Universal Service Initiatives	Number Portability Requirements	Resale/Sale of Exchanges	Interconnection Arrangements	Commission Progress Report
Arizona	Docket #59125 is the general rulemaking docket regarding local exchange competition. The rulemaking docket contains guidelines for carriers who file pending applications.	A staff proposal found that regulation should be relaxed for LEC services subject to effective competition; and universal service should be maintained, with all service providers sharing the funding.	The Commission has set up a task force to examine local number portability.	Under review by Commission Task Force.	Currently, LECs must file proposed unbundling tariffs within 6 months of receiving a bona fide request. A hearing was held regarding the Interconnection and Unbundling rulemaking on March 21, 1996. (Case No. R-0000-96-001)	The Arizona Corporation Commission approved telecommunications competition rules in June, 1995 that provide a framework for opening up the local exchange markets. It has certified several carriers.
Arkansas	The Arkansas PSC has yet to adopt a rulemaking docket regarding local exchange competition.	Not under commission review.	Not under commission review.	Not under commission review.	Not under commission review.	Although there is currently a statutory prohibition, the PSC has taken steps to establish a rulemaking docket.

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California	There are two rulemaking dockets that have been opened by the Commission: Docket #R9504043 and #19504044. Local exchange competition began Jan. 1, 1996 in areas served by Pacific Bell and GTE California and on Jan. 1, 1997, in the remainder of the state.	In early 1995 the PUC opened an investigation on universal service that focuses on 1) current goals; 2) how the definition should evolve; 3) keeping basic service affordable; 4) whether existing forms of surcharges on bills to fund Universal Lifeline and High Cost Fund programs should remain.	Rule 6 of the PUC Local Competition Rules states the PUC policy on long term number portability.	Resale of local exchange services began March 1, 1996 The PUC approved resale provisions at wholesale rates for Pac Bell and GTE. Pac Bell's rates for business lines are to be discounted by 17% and by 10% for residential lines. GTE's rates are to be discounted by 12% and 7% respectively.	Rule 8 of the PUC Local Competition Rules Decision (Docket 95-05-074) deals with interconnection agreements.	
Colorado	A rulemaking regarding local exchange competition is expected in March, 1996. (Docket No. 95R-555T) Under HB- 1335, competitive local exchange carriers are required to obtain certification by showing ability and resources to offer service.	1995 legislation mandates establishment of a competitively fair universal service support mechanism available to all service providers in high-cost areas.	Cost-based number portability solution is under review by Working Groups established pursuant to HB-1335. A task force was formed in early 1996 to determine a permanent solution. Rules are being proposed under docket #95R-554T	Resale is permitted by the commission, however the working group is trying to determine what LECs should be required to make available for resale.	Interconnection arrangements are currently being negotiated. Proposed regulations were issued in Docket No. 95R-556T.	The CPUC has established several working groups regarding numerous local exchange competition proceedings. They are expected to adopt formal rules by the end of the month.

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Connecticut	No generic rulemaking docket has been opened by the commission; however, several dockets relating to specific local competition issues are underway. Public law 94-83 allows the DPUC to authorize competitive carriers as well as requiring LECs to open their networks to competitors.	Legislation passed in 1994, signed by Governor Weicker, and took effect July 1, 1994. The DPUC was authorized to establish an independent fund to support the provision of basic service by any provider.	The Commission has approved SNET's proposal to impose a flat-rate charge for interim portability for any costs.	The DPUC issued a draft decision in early December regarding rates for SNET's unbundled network and wholesale basic local exchange service offerings. SNET's rate proposal, which would in many cases have set wholesale rates higher than existing retail rates, was rejected. The DPUC found SNET's cost studies to be "faulty."	Order 94-10-02 adopted a stipulation requiring Bill and Keep for the first 12 months, with measurement of traffic exchange during the last 3 months to assist competitors in selecting an appropriate compensation fund.	The DPUC has examined a number of local exchange competition issues, although no formal rulemaking docket has been opened by the commission. Three carriers have already been certified to provide local service.
Delaware	There are no local competition proceedings pending at the commission.	The PSC has not established a USF.	Not being considered by the commission.	Not being considered by the commission.	Not being considered by the commission.	A 'Generic' rulemaking docket looking into local competition was opened by the commission.
District of Columbia	No rulemaking docket has been established by the commission.	The Commission currently has a universal service goal in the form of higher telephone penetration rates.	Not being considered by the commission.	Not being considered by the commission.	Not being considered by the commission.	The DC Public Service Commission allows partial competition in the facilities-based provision of local exchange service.

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Florida	A general rulemaking docket (#950918-TX) has been opened by the commission to establish ground rules for carriers who apply for an application to offer local exchange service.	Docket #950696-TP is the docket for determination of Universal Service Funding.	Docket 950737-TP is the investigation into number portability.	Rules regarding resale are being considered under Docket No. 921074.	Interconnection agreements are being considered in Docket No. 921074.	On September 12, 1995 the commission granted certification to provide local exchange service to the following: Time Warner, Continental Fiber Technologies, InterMedia Communications, MFS, and MCI Metro.
Georgia	There have been several notices of inquiry prior to a rulemaking docket to be opened by early 1996. Docket 5778-U related to interim filing requirements for local exchange certificates. The Commission concluded this inquiry and has been accepting applications from competitive entrants.	Basic local service includes dial-tone and local usage, extended area service, Touch Tone, white pages directory, local operator services, access to IXCs, 911 emergency services and telecommunications relay service. Docket 5825-U is the Notice of Inquiry to establish a Universal Service Fund.	Number portability workshops have been held to identify potential technical solutions to local competition. An aggressive schedule has been established to implement full number portability by 1997.		Docket 5958-U relates to Interconnection, Unbundling, Resale of Telecommunications Services, and rules for certifying carriers.	The Georgia Public Service Commission has taken an active role in implementing local competition in Georgia.